

The Insanity Defense: Tennessee's Process and Outcome

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The defense of insanity is one of the more frequently discussed criminal defenses. An insanity defense, if successful, works as a complete acquittal of the defendant (i.e., not guilty by reason of insanity).¹ Public concerns frequently surface when defendants who appear to have intentionally engaged in harmful conduct are found not guilty by reason of insanity.² The two rationales behind the insanity defense follow:

This defense makes it possible to separate out for special treatment certain persons who would otherwise be subjected to the usual penal sanction, which may follow convictions.

The insanity defense authorizes the state to hold those who do not possess the guilty mind or *mens rea* required for conviction by allowing an alternative to conviction and imprisonment rather than outright acquittal.³

In the 20 years since John Hinckley shot President Reagan, the national debate over the insanity defense has continued. Many states have adopted a *Guilty But Mentally Ill* test as an alternative. The test for insanity can differ from state to state and so may the use and outcomes of the defense. This must be considered when interpreting any study on this topic.⁴ Tennessee's standard for the insanity defense has changed recently, as is typical of most jurisdictions. In Tennessee, the following elements are required criteria for the insanity defense:

- the mental disease or defect must be severe; and
- the accused must have been unable to appreciate the nature or wrongfulness of the act.⁵

In addition, the defendant has the burden of proving insanity by the standard of clear and convincing evidence. An expert can no longer give his opinion and expect the court to unconditionally accept an evaluation that a defendant is not guilty by reason of insanity. However, the insanity defense can provide a complete defense to those persons whose mental condition satisfies the above criteria (i.e., an affirmative defense).⁶ Under Tennessee's previous statutes, if the evidence raised a reasonable doubt as to the defendant's sanity, the burden of proof then fell upon the state to establish sanity beyond a reasonable doubt.⁷

The purpose of this paper is to review and analyze the demographics and outcomes of all pretrial evaluations performed by the forensic units of the Tennessee Department of Mental Health and Developmental Disabilities (TDMDD), Regional Mental Health Institutes (RMHIs) and by selected community mental health center forensic staff over a 12-month period (calendar year 2000). Particular emphasis is being placed on the diagnosis, criminal charges, and the correlation between the clinician's evaluation of insanity and the corresponding decision made by the court.

Data was gathered and analyzed relative to individuals who were admitted to the state's RMHIs and to selected community mental health centers for pretrial evaluations depending on the type of crime committed. (Only one state hospital has a secure forensic unit where capital felony offenders can be evaluated.) The purpose of the evaluations was to determine whether or not the defendant met criteria for use of the insanity defense. A current 12-month review of defendants charged with a crime was conducted.

The total number of defendants referred for a mental health evaluation was 636. Of this number 139 were female, 496 were male, and one was unknown. Relative to race, 346 were African-Americans, 275 were Caucasians, 1 was Asian, and 14 were unknown. Their ages fell within three major categories: 131 were ages 18-25; 153 were ages 25-35; and 209 were ages 36-45. There were 16 defendants between the ages of 46 and 65. Only one defendant was under the age of 18, and 12 of the defendants were age 66 and older. The oldest defendant was 74 years of age.

The defendant's crimes fell within one of four categories: capital, violent, nonviolent, and miscellaneous. Of the 636 total, 25 had been charged with capital offenses; 290 had been charged with violent offenses; 113 had been charged with nonviolent offenses; 206 had been charged with misdemeanors; and two defendants had been charged with crimes unknown to us.

Over 55% of these defendants fell within two mental health diagnostic categories: 268 were psychotic, and 83 had bipolar disorder. Another 93 individuals has no

diagnosis assigned although they were referred for an insanity evaluation.

Of the 636 referred for forensic evaluations, the number determined to clinically meet the insanity defense standard was 118 (19% of the total referred). The following focuses on those 118 individuals. Of the group of individuals meeting the insanity defense upon pre-trial evaluation, 80 were men and 37 were women. There were 66 African-Americans, 54 Caucasians, 1 Asian, and 1 defendant whose race was not known. Regarding the defendants' age: 46 were between the ages of 36 and 45 years; 31 were between the ages of 25 and 35; 16 were between ages 18 and 25; 16 were between ages 46 and 55; 7 were between ages 56 and 65; one defendant was 74 years of age; and one defendant's age was unknown. Most of the defendants (46) fell between the ages of 36 and 45 with the second largest group (31) falling between the ages of 25 and 35. A breakdown by illness showed that 67 defendants were psychotic; 29 had bipolar disorder; 5 had major depression; 5 had no diagnosis known; 4 had mental retardation; 2 had mood disorders; 2 had impulse control disorders; 2 had substance abuse disorders; 1 had dementia; and 1 had adjustment disorder. A breakdown within each category of illness showed that 27 out of the 67 psychotic defendants committed violent crimes (one committed a capital offense). Twelve out of the 29 defendants with bipolar disorder committed violent crimes. Three of the five defendants with major depression committed violent crimes. A total of six defendants in the remaining categories described above committed violent crimes. With respect to the total crimes committed, 42% were violent crimes (including the one capital offense); 18% of the crimes were nonviolent; and 40% of the crimes were misdemeanors.

Using the number of individuals determined by forensic evaluations (118), the courts supported the not guilty by reason of insanity pleas (NGRI) in 72% of the cases. Two percent were found guilty. Nine percent are

pending, and there were no outcome date available for 16%. There are two primary reasons that this sort of information might be unavailable. One is that private attorneys represented some of the defendants rather than by public defenders who received no court disposition data on these individuals. The other reason is we were unable to get defendant outcome data from certain public defenders' offices.

Thus, when reviewing the cases where defendant outcome data were available, our percentages changed. The courts supported 85% of the NGRI forensic evaluation findings, found 3% guilty, and have 11% pending. This suggests that there is a high correlation between the opinion of the expert witnesses and the adjudicative outcomes.

This is similar to findings in other states. TM

References

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